

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 28, 2004

IN RE:

PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. TO AMEND ITS CERTIFICATE
OF CONVENIENCE AND NECESSITY

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DOCKET NO. 04-00274

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on September 27, 2004, to consider the *Petition of Tennessee Wastewater Systems, Inc to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service territory to include a portion of Blount County, Tennessee, named Merril Taylor Subdivision.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Tennessee Regulatory Authority. The procedure for obtaining a certificate of convenience and necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the

construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate .

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ received a CCN in Docket No. 93-09040² from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee.

Chairman Pat Miller issued a *Notice of Hearing* on September 17, 2004, announcing that the voting panel assigned to this docket would conduct the Hearing on the merits of the *Petition* on Monday, September 27, 2004, immediately following the regularly scheduled Authority Conference.

The Petition

On September 1, 2004, Tennessee Wastewater Systems, Inc. ("Tennessee Wastewater" or the "Company") filed a *Petition* to amend its CCN to expand its service area to include a portion of Blount County, Tennessee, named Merrill Taylor Subdivision. A map showing the area to which the Company proposes to extend service is attached to its *Petition*. Tennessee Wastewater filed a rate schedule with its *Petition* in this docket, which states that the residential rates for sewer service will be as follows.

Total Monthly Charge	\$35.11
Non-Payment Fee	5%
Disconnection Fee	\$10
Reconnection Fee	\$15
Returned Check Fee	\$20
Access Fee	\$84/year

¹ In Docket No. 03-00518, by Order dated February 19, 2004, On-Site Systems, Inc. changed its name to Tennessee Wastewater Systems, Inc.

² See *In re The Application of On-Site Systems, Inc. for a Certificate of Convenience and Necessity to Provide Sewage Collection, Treatment and Disposal for a Proposed Development in Maury County*, Docket No. 93-09040, Order (April 6, 1994)

Tennessee Wastewater filed a rate schedule for commercial sewer service without food service and with food service with its *Petition* in this docket. The monthly rate schedule is based on a daily design flow expected from the type of establishment being served.

The minimum monthly sewer rate applicable to a commercial customer without food service is \$75 for the first 300 gallons per day of design flow expected. For each additional 100 gallons up to 1,000 gallons per day design flow, there is a charge of \$15 per month per 100 gallons. For 1,000 gallons up to 3,000 gallons per day design flow, sand-gravel filter sewer treatment charge per 1,000 gallons is \$140 for drip irrigation and \$165 for point discharge. For lagoon sewer treatment, the charge per 1,000 gallons is \$116 for drip irrigation and \$140 for point discharge. Customers with treatment and disposal by another entity will pay a \$73 per month minimum charge plus pass through costs from the other entity. A surcharge will apply for excess water usage above the expected design flow. For 1 gallon to 1,000 gallons, the surcharge is \$175. For 1,001 gallons to 2,000 gallons, the surcharge is \$200. And for excess usage over 2,000 gallons, the surcharge is \$200 per 1,000 gallons. Other fees include:

Non-Payment Fee	5% Penalty
Disconnection Fee	\$10
Reconnection Fee	\$15
Returned Check Fee	\$20
City of Coopertown Franchise Fee	3%

The minimum monthly sewer rate applicable to a commercial customer with food service is \$100 for the first 300 gallons per day of design flow expected. For each additional 100 gallons up to 1,000 gallons per day design flow, there is a charge of \$18 per month per 100 gallons. For 1,000 gallons up to 3,000 gallons per day design flow, sand-gravel filter sewer treatment charge per 1,000 gallons is \$170 for drip irrigation and \$192 for point discharge. For lagoon sewer treatment, the charge per 1,000 gallons is \$142 for drip irrigation and \$163 for point discharge. Customers with treatment and disposal by another entity will pay a \$94 per month minimum charge plus pass

through costs from the other entity. A surcharge will apply for excess water usage above the expected design flow. For 1 gallon to 1,000 gallons, the surcharge is \$210. For 1,001 gallons to 2,000 gallons, the surcharge is \$220. And for excess usage over 2,000 gallons, the surcharge is \$220 per 1,000 gallons. Other fees include.

Non-Payment Fee	5% Penalty
Disconnection Fee	\$10
Reconnection Fee	\$15
Returned Check Fee	\$20
City of Coopertown Franchise Fee	3%

In its *Petition*, Tennessee Wastewater contends that neither South Blount County Utility District nor the Town of Louisville, Tennessee, have the desire to provide wastewater services to the prospective area named Merrill Taylor Subdivision in Blount County. In support of this contention, Tennessee Wastewater submitted a letter dated April 2, 2004, from the District Manager of the South Blount County Utility District, J. Isom Lail, stating that the Utility District is strictly a water distributor and does not provide sewer service in the prospective subject area. Tennessee Wastewater also submitted a letter dated April 6, 2004, from the Louisville Town Mayor, Geraldine Anderson, stating that the Town of Louisville does not have any plans to provide sewer service in the subject area.

The September 27, 2004 Hearing


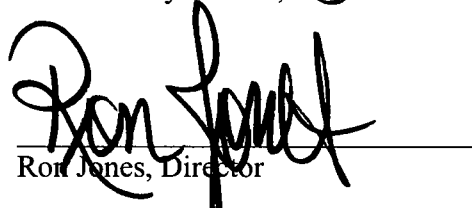
Pursuant to Tenn. Code Ann. § 65-4-203(b), public notice of the Hearing in this matter was issued by the Chairman of the Authority on September 17, 2004. No persons sought intervention prior to or during the Hearing. At the Hearing held on September 27, 2004, Charles Pickney, Jr., President of Tennessee Wastewater Systems, Inc., participated in the Hearing, presented testimony, and was subject to examination by the panel assigned to this docket. Upon the presentation of Tennessee Wastewater's proof in this case, the evidentiary record as a whole, and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Chairman Pat Miller, Director Deborah Taylor

Tate and Director Ron Jones, the voting panel assigned to this docket, voted unanimously at the Hearing to approve Tennessee Wastewater's *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service territory to include a portion of Blount County, Tennessee, named Merrill Taylor Subdivision, as shown in the map attached to the *Petition* is approved.

2. Tennessee Wastewater Systems, Inc.'s rates for wastewater services to Blount County, Tennessee, named Merrill Taylor Subdivision shall be in compliance with the rate schedule attached to its *Petition* and as set forth in this Order.


Pat Miller, Chairman
Deborah Taylor Tate, Director
Ron Jones, Director